

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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TARA B. LEY,

Plaintiff,

v.

17-cv-918 (JLS) (JJM)

STATE OF NEW YORK,  
DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION,

Defendant.

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**DECISION AND ORDER**

Plaintiff Tara B. Ley commenced this action on September 14, 2017, alleging employment discrimination claims against Defendant the State of New York, Department of Corrections and Community Supervision (“DOCCS”) based on her employment as a dental hygienist at Lakeview Shock Incarceration Correctional Facility (“Lakeview”). Dkt. 1. As relevant here, Ley asserted gender and race discrimination claims, gender- and race-based hostile work environment claims, and a retaliation claim. Dkt. 1, at 21-26, 28-29; *see* Dkt. 32, at 15-16. Ley’s claims stem from her experience working with Dr. Pattathan in Lakeview’s dental clinic between December 2014 and February 2016. *See* Dkt. 1, at 4-21.

DOCCS answered Ley’s complaint, and the Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C.

§§ 636(b)(1)(A), (B), and (C).<sup>1</sup> Dkts. 4, 5. DOCCS moved for summary judgment on August 27, 2019. Dkt. 21. Ley responded in opposition on November 4, 2019, and DOCCS replied on December 16, 2019. Dkts. 27, 30. And on March 11, 2020, Judge McCarthy issued a Report and Recommendation (“R&R”), recommending that this Court grant DOCCS’s motion for summary judgment on Ley’s remaining claims.<sup>2</sup> Dkt. 32.

Ley objected to the R&R on March 25, 2020, noting that she accepted the R&R’s view of the facts and statement of the applicable legal standards, but objected to its application of the facts to those standards. *See* Dkt. 33, at 1. Ley’s specific objections are difficult to discern, but she appears to raise the following arguments:

1. Both her voluntary transfer to another DOCCS facility, which constituted constructive discharge, and the effect of her work environment on her physical and mental health were adverse employment actions to support her gender and race discrimination claims;
2. Her work environment with Dr. Pattathan over the course of 13 months, including that his conduct made the workplace physically unsafe, supports her gender- and race-based hostile work environment claims; and
3. DOCCS’s failure to stop Dr. Pattathan from continuing the offensive conduct supports her retaliation claim.

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<sup>1</sup> Hon. Lawrence J. Vilardo, who was previously assigned to this case, issued the dispositive referral order. Dkt. 5. On January 5, 2020, this case was reassigned to the undersigned. Dkt. 31.

<sup>2</sup> Ley withdrew her two national origin-based claims. Dkt. 32, at 16 n.8.

See Dkt. 33, at 2-6. Because the R&R overlooked material, disputed facts and reached incorrect conclusions when analyzing the totality of the facts presented, Ley argues that this Court must reject the R&R. *Id.* at 6. DOCCS responded in opposition to Ley's objections on April 8, 2020. Dkt. 35.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

This Court carefully reviewed the R&R and the relevant record. Based on that *de novo* review, the Court accepts and adopts Judge McCarthy's recommendation to grant DOCCS's motion for summary judgment.

For the reasons stated above and in the R&R, the Court GRANTS DOCCS's motion for summary judgment (Dkt. 21). Ley's complaint (Dkt. 1) is DISMISSED, with prejudice. The Clerk of Court shall close this case.

SO ORDERED.

Dated: August 21, 2020  
Buffalo, New York

s/ John L. Sinatra, Jr.  
JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE